possession thereof, or, if such person cannot be ascertained, respecting the custody and production of such property.

(*2*) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit. If such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation. Procedure where owner of property seized unknown.

524. (*1*) If no person within such period establishes his claim to such property, and if the person in whose possession such property was found, is unable to show that it was legally acquired by him, such property shall be at the disposal of the State Government and may be sold under the orders of the Presidency Magistrate, District Magistrate or Sub-divisional Magistrate, or of a Magistrate of the first Class empowered by the State Government in this behalf. Procedure where no claimant appears within six months.

524. (*1*) If no person within such period establishes his claim to such property, and if the person in whose possession such property was found, is unable to show that it was legally acquired by him, such property shallbe at the disposal, of the [1][[2][State] Government] and may be sold under the orders of the Presidency Magistrate, District Magistrate, or Sub-divisional Magistrate, or [3][*of an Executive Magistrate*]empowered by the [4][[2][State] Government] in this behalf. Procedure where no claimant appears within six months.

(*2*) In the case of every order passed under this section, an appeal shall lie to the Court to which appeals against sentences of the Court passing such order would lie.

525. If the person entitled to the possession of such property is unknown or absent and the property is subject to speedy and natural decay, [5][or if the Magistrate] to whom its seizure is reported is of opinion that its sale would be for the benefit of the owner, [6][or that the value of such property is less than ten rupees] the Magistrate may at any time direct it to be sold; and the provisions of sections 523 and 524 shall, as nearly as may be practicable, apply to the nett proceeds of such sale. Power to sell perishable property.

CHAPTER XLIV.

Of the Transfer of Criminal Cases.

526. (*1*) Whenever it is made to appear to the High Court:—

(*a*) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(*b*) that some question of law of unusual difficulty is likely to arise, or

(*c*) that a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry into or trial of the same, or

(*d*) that an order under this section will tend to the general convenience of the parties or witnesses, or

High Court may transfer case or itself try it.

---

[1] Substituted by the A. O. 1937 for "Govt.".
[2] Substituted by the A. O. 1950 for "Provincial".
[3] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "of a Magistrate of the first class".
[4] Substituted by the A. O. 1937 for "L. G.".
[5] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 144, for "or the Magistrate".
[6] Inserted by s. 144, *ibid.*

(*e*) that such an order is expedient for the ends of justice, or is required by any provision of this Code; it may order—

(*i*) that any offence be inquired into or tried by any Court not empowered under sections 177 to 184 (both inclusive), but in other respects competent to inquire into or try such offence;

(*ii*) that any particular [1]* case or appeal, or class of [2]* cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction;

(*iii*) that any particular [1]* case or appeal be transferred to and tried before itself; or

(*iv*) that an accused person be committed for trial to itself or to a Court of Session.

[3][(*1A*) Notwithstanding anything contained in sub-section (*1*) no application shall lie to the High Court for the exercise of its powers under the said sub-section for transferring any case from one Criminal Court to another Criminal Court in the same sessions division, unless an application for such transfer has been made to the Sessions Judge and rejected by him.]

(*2*) When the High Court withdraws for trial before itself any case from any Court other than the Court of a Presidency Magistrate, it shall, except as provided in section 267, observe in such trial the same procedure which that Court would have observed if the case had not been so withdrawn.

(*3*) The High Court may act either on the report of the lower Court, or on the application of a party interested, or on its own initiative.

(*4*) Every application for the exercise of the power conferred by this section shall be made by motion, which shall, except when the applicant is the Advocate General, be supported by affidavit or affirmation.

(*5*) When an accused person makes an application under this section, the High Court may direct him to execute a bond, with or without sureties, conditioned that he will, if [4][so ordered], pay [5][any amount which the High Court [6][may under this section award by way of compensation] to the person opposing the application.]

Notice to Public Prosecutor of application under this section.

(*6*) Every accused person making any such application shall give to the Public Prosecutor notice in writing of the application, together with a copy of the grounds on which it is made; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

[7][(*6A*) Where any application for the exercise of the power conferred by this section is dismissed, the High Court may if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of [8][compensation] to any person who has opposed the application [9][such sum not exceeding two hundred and fifty rupees as it may consider proper in the circumstances of the case].]

(*7*) Nothing in this section shall be deemed to affect any order made under section 197.

Adjournment on application under this section.

[10][(*8*) If in any inquiry under Chapter VIII or Chapter XVIII or in any trial, any party interested intimates to the Court at any stage before the defence closes its case that he intends to make an application under this section [11][or under section 528]

---

[1] The word "criminal" rep. by Act 18 of 1923, s. 145.

[2] The word "such" rep. by s. 145, *ibid.*

[3] Inserted by Act 26 of 1955, s. 103 (*a*).

[4] Substituted by Act 18 of 1923, s. 145, for "convicted".

[5] Substituted by s. 145, *ibid.*, for "the costs of the Prosecutor".

[6] Substituted by the Code of Criminal Procedure (Amendment) Act, 1932 (21 of 1932), s. 2, for "has power under this section to award by way of costs".

[7] Inserted by Act 18 of 1923, s. 145.

[8] Substituted by Act 21 of 1932, s. 2, for "costs".

[9] Substituted by s. 2, *ibid.*, for "any expenses reasonably incurred by such person in consequence of the application".

[10] Substituted by s. 2, *ibid.*, for the original sub-section (*8*).

[11] Inserted by Act 26 of 1955, s. 103 (*b*) (*i*).

the Court shall, upon his executing, if so required, a bond without sureties, of an amount not exceeding two hundred rupees, that he will make such application within a reasonable time to be fixed by the Court, adjourn the case for such a period as will afford sufficient time for the application to be made and an order to be obtained thereon :

Provided that nothing herein contained shall require the Court to adjourn the case upon a second or subsequent intimation from the same party [1][if the application is intended to be made to the same Court to which the party has been given an opportunity of making such an application], or, where an adjournment under this sub-section has already been obtained by one of several accused, upon a subsequent intimation by any other accused.]

[2][(*9*) Notwithstanding anything hereinbefore contained, a Judge presiding in a Court of Session shall not be required to adjourn a trial under sub-section (*8*) if he is of opinion that the person notifying his intention of making an application under this section has had a reasonable opportunity of making such an application and has failed without sufficient cause to take advantage of it.]

[3][*Explanation.*—Nothing contained in sub-section (*8*) or sub-section (*9*) restricts the powers of a Court under section 344.

(*10*) If, before the argument (if any) for the admission of an appeal begins, or, in the case of an appeal admitted, before the argument for the appellant begins, any party interested intimates to the Court that he intends to make an application under this section, the Court shall, upon such party executing, if so required, a bond without sureties of an amount not exceeding two hundred rupees that he will make such application within a reasonable time to be fixed by the Court, postpone the appeal for such a period as will afford sufficient time for the application to be made and an order to be obtained thereon.]

High Court to transfer for trial to itself in certain cases.

[4][**526A.** (*1*) Where any person subject to the [5]Naval Discipline Act [6][other than a person to whom that Act applies by virtue of the Indian Navy (Discipline) Act, 1934)] or to the [5]Army Act or to the Air Force Act is accused of any offence such as is referred to in proviso (*a*) to section 41 of the Army Act, the Advocate General shall, if so instructed by the competent authority, apply to the High Court for the committal or transfer of the case to that High Court and thereupon the High Court shall order that the case be committed for trial to or be transferred to itself and shall thereafter proceed to try the case by jury.

29 and 30 Vict., c. 109. 44 and 45 Vict., c. 58. 7 & 8 Geo. 5 c. 51.

(*2*) The [7][Central Government] may, by notification in the [8][Official Gazette] declare any officer to be the competent authority for the purpose of issuing instructions under sub-section (*1*) in regard to any class of cases specified in the notification.]

Power of Supreme Court to transfer cases and appeals.

[9][**527.** (*1*) Whenever it is made to appear to the Supreme Court that an order under this section is expedient for the ends of justice, it may direct that any particular case or appeal be transferred from one High Court to another High Court or from a criminal court subordinate to one High Court to another criminal court of equal or superior jurisdiction subordinate to another High Court.

---

[1] Inserted by Act 26 of 1955, s. 103 (*b*) (*ii*).
[2] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 145, for the original sub-section (*9*).
[3] Inserted by the Code of Criminal Procedure (Amendment) Act, 1932 (21 of 1932), s. 2.
[4] Inserted by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 32.
[5] Coll. Stat.
[6] Inserted by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.
[7] Substituted by the A. O. 1937 for "G. G. in C.".
[8] Substituted, *ibid*, for "*Gazette of India*".
[9] Substituted by Act 23 of 1952, s. 2, for the original s. 527.

(*2*) The Supreme Court may act under this section only on the application of the Attorney-General of India or of a party interested, and every such application shall be made by motion which shall, except when the applicant is the Attorney-General of India or the Advocate-General, be supported by affidavit or affirmation.

(*3*) The court to which such case is transferred may act on the evidence already recorded or partly so recorded and partly recorded by itself, or it may re-summon the witnesses and recommence the inquiry or trial:

Provided that in any case so transferred the person accused may, when the court to which the case is transferred commences its proceedings, demand that the witnesses or any of them be re-summoned and reheard.

(*4*) Where any application for the exercise of the powers conferred by this section is dismissed, the Supreme Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding one thousand rupees as it may consider appropriate in the circumstances of the case.]

Sessions Judge may withdraw cases from Assistant Sessions Judge.

528. [1][(*1*) Any Sessions Judge may withdraw [2][any case or appeal] from, or recall [2][any case or appeal] which he has made over to, any Assistant Sessions Judge subordinate to him.]

[3][(*1A*) At any time before the trial of the case or the hearing of the appeal has commenced before the Additional Sessions Judge, any Sessions Judge may recall any case or appeal which he has made over to any Additional Sessions Judge.

(*1B*) Where a Session Judge withdraws or [4][recalls a case or appeal under sub-section (*1*) or sub-section (*1A*)], he may either try the case in his own Court or hear the appeal himself, or make it over in accordance with the provisions of this Code to another Court for trial or hearing, as the case may be.]

[5][(*1C*) Any Sessions Judge, on an application made to him in this behalf, may, if he is of opinion that it is expedient for the ends of justice, order that any particular case be transferred from one Criminal Court to another Criminal Court in the same sessions division.]

District or Sub-divisional Magistrate may withdraw or refer cases.

(*2*) Any Chief Presidency Magistate, District Magistrate or Sub-divisional Magistrate may withdraw any case from or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

[6][*Chief Presidency Magistrate or Sessions Judge*] may withdraw or refer cases.

[6][(*2*)] Any Chief Presidency Magistrate, [7][*or Sessions Judge*] may withdraw any case from or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

Power to authorize District Magistrate to withdraw classes of cases.

[6][(*3*)] The [9][10][State] Government] may authorize the District Magistrate to withdraw from any Magistrate subordinate to him either such classes of cases as he thinks proper, or particular classes of cases.

---

[1] Inserted by Act 18 of 1923, s. 147.
[2] Substituted by Act 26 of 1955, s. 104 (*a*), for the words "any case".
[3] Inserted by the Code of Criminal Procedure (Amendment) Act, 1946 (3 of 1946), s. 2.
[4] Substituted by Act 26 of 1955, s. 104 (*b*), for the original portion.
[5] Inserted, *ibid.*, s. 104 (*c*).
[6] The original sub-sections (*1*), (*2*) and (*3*) were re-numbered (*2*), (*3*) and (*5*), respectively, by Act 18 of 1923, s. 147.
[7] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "District Magistrate or Sub-divisiona Magistrate".
[8] Substituted, *ibid*, s. 2 and Sch. Pt. I, for "District or Sub-divisional Magistrate".
[9] Substituted by the A. O. 1937 for "L. G.".
[10] Substituted by the A. O. 1950 for "Provincial".

[1][(*3A*) Where the District Magistrate authorised under sub-section (*3*) withdraws any case from any Magistrate subordinate to him, he may inquire into or try such case himself or refer it for inquiry or trial to any other Magistrate subordinate to him and competent to inquire into or try the same.]

[2][(*4*) Any Magistrate may recall any case made over by him under section 192, sub-section (*2*), to any other Magistrate and may inquire into or try such case himself.]

[3][(*5*)] A Magistrate making an order under this section shall record in writing his reasons or making the same.

(*6*) The head of a village under the Madras Village Police Regulation, 1816, or the Madras Village Police Regulation, 1821, is a Magistrate for the purposes of this section.

[4][(*6*) *For the purposes of this section, a Police patel appointed under section 5 of the Bombay Village Police Act, 1867, shall be a Magistrate subordinate to the District Magistrate.*]

Bom. VIII of 1867.

[*CHAPTER XLIVA—Supplementary provisions relating to European and Indian British Subjects and others.*] *Repealed by the Criminal Law (Removal of Racial Discriminations Act, 1949 (XVII of 1949), s. 3 (with effect from the 6th April 1949).*

CHAPTER XLV.

OF IRREGULAR PROCEEDINGS.

Irregularities which do not vitiate proceedings.

529. If any Magistrate not empowered by law to do any of the following things, namely:—

(*a*) to issue a search warrant under section 98;

(*b*) to order, under section 155, the police to investigate an offence;

(*c*) to hold an inquest under section 176;

(*d*) to issue process, under section 186; for the apprehension of a person within the local limits of his jurisdiction who has committed an offence outside such limits;

(*e*) to take cognizance of an offence under section 190, sub-section (*1*), clause (*a*) or clause (*b*);

(*f*) to transfer a case under section 192;

(*g*) to tender a pardon under section 337 or section 338;

(*h*) to sell property under section 524 or section 525; or

(*i*) to withdraw a case and try it himself under section 528;

erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

Irregularities which vitiate proceedings.

530. If any Magistrate, not being empowered by law in this behalf, does any of the following things, namely:—

(*a*) attaches and sells property under section 88;

(*b*) issues a search-warrant for a letter, parcel or other thing in the Post Office, or a telegram in the Telegraph Department;

(*c*) demands security to keep the peace;

(*d*) demands security for good behaviour;

(*e*) discharges a person lawfully bound to be of good behaviour;

(*f*) cancels a bond to keep the peace;

(*g*) makes an order under section 133 as to a local nuisance;

(*h*) prohibits, under section 143, the repetition or continuance of a public nuisance;

---

[1] Inserted by Bom. 8 of 1954, s. 2 and Sch. Pt. I.

[2] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 147.

[3] The original sub-sections (*1*), (*2*) and (*3*) were re-numbered (*2*), (*3*) and (*5*), respectively, *ibid.*, s. 147.

[4] Substituted for the original sub-section (*6*) by Bom. 30 of 1946, s. 2.